HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Contempt Petition No. 193 of 2003

Dinesh Chandra S/o Sri Girdhari Lal,
R/o C/o Sri V.P. Dhyani,
Near Ramji Lal Chakki, Kashirampur,
Nazibabad Road, Kotdwar,
Distt. Pauri Garhwal. ---Applicant

Vs.

Sri Naveen Chandra,
Executive Engineer, Rural Engineering Service,
Pauri Division, Pauri Garhwal. ---Respondent.

Sri S.K. Khare, learned counsel for the applicant.
Sri V.B.S. Negi, learned counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri S.K. Khare, learned counsel for the applicant/ Contempt Petitioner and Sri V.B.S. Negi, learned counsel for the respondent.

The petitioner who was engaged in Rural Engineering Department on Daily Wage basis as Class IV employee filed writ petition no. 1835 (SB)2002 and this Court while disposing of the writ petition on 25.06.2003 has passed the following order:-

"Heard Sri S.K. Khare, learned counsel for the petitioner and learned Standing Counsel.

Learned counsel for the petitioner submits that the controversy raised in this petition is squarely covered by the judgment dated 21.07.1993 passed in the writ petition no. 8148 of 1990 and other connected petitions passed by the Hon'ble High Court of Allahabad (Lucknow Bench), against which special leave petition was dismissed by the Apex Court on 24.04.1995.

Learned counsel for the State submits that if the case of the petitioner is covered by the aforesaid judgment, the benefit of the judgment may be given to him. Therefore, it is provided that in case the case of the petitioner is covered by the aforesaid judgment, the benefit of the same shall be given to the petitioner.

With the aforesaid direction, the petition is finally disposed of."

Since the petitioner was not reinstated in the Department, he filed the present Contempt Petition.

The respondents have filed counter affidavit. In the counter affidavit the respondent has annexed the order dated 11.08.2003 passed by the Executive Engineer, Rural Engineering Service, Pauri Division stating therein that the case of the petitioner is not covered by the judgment of the Allahabad High Court (Lucknow Bench) passed in writ petition no. 8148 of 1990 and has rejected the claim of the petitioner to give benefit on the basis of that judgment. It has been further stated in the order dated 11.08.2003 that whenever post will fall vacant in the Department in future, the petitioner will be invited to participate in the selection process.

Since the order passed by this Court in writ petition no. 1835 (SB) 2002 was to the effect that if the case of the petitioner is covered by the said judgment, the benefit of the judgment may be given to him.

According to the respondent, the case of the petitioner is not covered by the aforesaid judgment, thus the petitioner may challenge the order dated 11.08.2003, if he is aggrieved with the said order.

The contempt petition is not tenable and as such is dismissed.

Personal appearance of the respondent is exempted.

The notice issued against the respondent, is hereby discharged.

(M.M. Ghildiyal, J.)

December 16,2005:
NCM: